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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 VIVIAN L.,

9 Plaintiff,

10 v.

11 NANCY A. BERRYHILL,

12 Defendant.

Case No. C18-5436JLR

ORDER REVERSING AND
REMANDING DEFENDANT'S
DENIAL OF BENEFITS

13 **I. INTRODUCTION**

14 Plaintiff Vivian L. seeks review of the denial of her applications for disability
15 insurance ("DI") and supplemental security income ("SSI") benefits. (*See* Pl. Op. Br.
16 (Dkt. # 9) at 1.) Plaintiff contends that the Administrative Law Judge ("ALJ") erred by
17 (1) improperly rejecting the opinions of Bryan Zolnikov, Ph.D.; (2) improperly rejecting
18 the lay witness statements from Lauren Mallory; and (3) rejecting all of the medical
19 opinions in the record, thereby failing to base Plaintiff's residual functional capacity
20 ("RFC") on substantial evidence in the record. (*See id.*) As discussed below, the court
21 REVERSES the final decision of Defendant Nancy A. Berryhill, Deputy Commissioner
22 of the Social Security Administration for Operations (the "Commissioner"), and
23

1 REMANDS the matter for further proceedings under sentence four of 42 U.S.C. § 405(g).

2 II. THE ALJ'S DECISION

3 Utilizing the five-step disability evaluation process, 20 C.F.R. §§ 404.1520 &
4 416.920, the ALJ found:

5 **Step one:** Plaintiff has not engaged in substantial gainful activity since January
6 30, 2015, the amended alleged disability onset date. *See* 20 C.F.R. §§ 404.1571 *et*
7 *seq.* & 416.971 *et seq.*

8 **Step two:** Plaintiff has the following severe impairments: schizoaffective disorder
and bipolar disorder. *See* 20 C.F.R. §§ 404.1520(c) & 416.920(c).

9 **Step three:** Plaintiff does not have an impairment or combination of impairments
10 that meets or medically equals the severity of one of the listed impairments in 20
C.F.R. Part 404, Subpart P, Appendix 1. *See* 20 C.F.R. §§ 404.1520(d), 404.1525,
11 404.1526, 416.920(d), 416.925 & 416.926.

12 **Residual Functional Capacity:** Plaintiff can perform a full range of work at all
13 exertional levels, but has non-exertional limitations. She can understand,
remember, and apply short, simple instructions. She can perform routine,
14 predictable tasks. She cannot work in a fast-paced production-type environment.
She can make simple decisions. She can have exposure to few workplace
15 changes. She can have occasional interaction with the general public.

16 **Step four:** Plaintiff cannot perform any past relevant work. *See* 20 C.F.R.
§§ 404.1565 & 416.965.

17 **Step five:** Considering Plaintiff's age, education, work experience, and RFC,
18 there are jobs that exist in significant numbers in the national economy that
Plaintiff can perform. *See* 20 C.F.R. §§ 404.1569, 404.1569(a), 416.969 &
19 416.969(a).

20 (Admin. Record ("AR") (Dkt. # 7) at 15-35.) Based on these findings, the ALJ found
21 that Plaintiff had not been under a disability, as defined in the Social Security Act, from
22 January 30, 2015, through the date of the ALJ's decision. (*Id.* at 34.) The Appeals
23 Council denied Plaintiff's request for review, making the ALJ's decision the

1 Commissioner's final decision. (*Id.* at 1.)

2 **III. ANALYSIS**

3 Plaintiff, as the claimant, bears the burden of proving she is disabled within the
4 meaning of the Act. *See Meanel v. Apfel*, 172 F.3d 1111, 1113 (9th Cir. 1999). Pursuant
5 to 42 U.S.C. § 405(g), the court may set aside a denial of social security benefits only
6 when the ALJ's findings are based on legal error or not supported by substantial evidence
7 in the record as a whole. *Bayliss v. Barnhart*, 427 F.3d 1211, 1214 n.1 (9th Cir. 2005).
8 The ALJ is responsible for determining credibility, resolving conflicts in medical
9 testimony, and resolving any other ambiguities that exist. *Andrews v. Shalala*, 53 F.3d
10 1035, 1039 (9th Cir. 1995). Although the court is required to examine the entire record,
11 it may neither reweigh the evidence nor substitute its judgment for that of the ALJ. *See*
12 *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002).

14 Plaintiff's primary argument is that the ALJ's RFC finding was not supported by
15 substantial evidence because the ALJ assigned little or no weight to all of the medical
16 opinions of record. (*See* Pl. Op. Br. at 2-3.) Plaintiff specifically argues that the ALJ
17 erred in rejecting the opinions of Dr. Zolnikov and statements from Ms. Mallory, but also
18 implies that the ALJ erred in rejecting all of the medical opinions. (*See id.*) The court
19 will first address the ALJ's treatment of Dr. Zolnikov's opinions. The court will next
20 address the ALJ's treatment of Ms. Mallory's statements. The court will then address
21 whether the ALJ's RFC was supported by substantial evidence in the record. The court
22 will not separately address the ALJ's treatment of the other medical opinions in the
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1 record, however, because Plaintiff has not identified any specific errors the ALJ
2 committed. *See Carmickle v. Comm’r, Soc. Sec. Admin.*, 533 F.3d 1155, 1161 n.2 (9th
3 Cir. 2008) (noting that the court “ordinarily will not consider matters on appeal that are
4 not specifically and distinctly argued in an appellant’s opening brief”) (quoting *Paladin*
5 *Assocs., Inc. v. Mont. Power Co.*, 328 F.3d 1145, 1164 (9th Cir. 2008)).

6 **A. The ALJ Harmfully Erred in Rejecting Dr. Zolnikov’s Opinions**

7 Plaintiff contends that the ALJ harmfully erred in rejecting Dr. Zolnikov’s
8 opinions. (Pl. Op. Br. at 3.) The court agrees.

9
10 To reject an examining doctor’s opinions, the ALJ must provide “specific and
11 legitimate reasons that are supported by substantial evidence in the record.” *See Lester v.*
12 *Chater*, 81 F.3d 821, 830-31 (9th Cir. 1996) (citing *Andrews*, 53 F.3d at 1042). The ALJ
13 can satisfy this requirement “by setting out a detailed and thorough summary of the facts
14 and conflicting clinical evidence, stating his interpretation thereof, and making findings.”
15 *Reddick v. Chater*, 157 F.3d 715, 725 (9th Cir. 1998) (citing *Magallanes v. Bowen*, 881
16 F.2d 747, 751 (9th Cir. 1989)). The court may draw “specific and legitimate inferences
17 from the ALJ’s opinion.” *Magallanes*, 881 F.2d at 755.

18 Dr. Zolnikov examined Plaintiff on December 22, 2016. (*See* AR at 576-84.) He
19 diagnosed Plaintiff with schizoaffective disorder, bipolar type. (*Id.* at 577.) Dr. Zolnikov
20 opined that Plaintiff was markedly limited in her abilities to “[u]nderstand, remember,
21 and persist in tasks by following detailed instructions”; “[p]erform routine tasks without
22 special supervision”; and “[m]aintain appropriate behavior in a work setting.” (*Id.* at
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1 577-78.) Dr. Zolnikov further opined that Plaintiff was severely limited in her abilities to
2 “[p]erform activities within a schedule, maintain regular attendance, and be punctual
3 within customary tolerances without special supervision”; “[c]ommunicate and perform
4 effectively in a work setting”; and “[c]omplete a normal work day and work week
5 without interruptions from psychologically based symptoms.” (*Id.*)

6 The ALJ gave Dr. Zolnikov’s opinions little weight. (*Id.* at 32.) The ALJ gave
7 three reasons for rejecting Dr. Zolnikov’s opinions: (1) they were inconsistent with or
8 contradicted by the overall medical evidence; (2) they were inconsistent with Dr.
9 Zolnikov’s own examination findings; and (3) Plaintiff made statements to Dr. Zolnikov
10 that were inconsistent with her statements elsewhere in the record. (*Id.* at 27-28, 32.)

11
12 1. The ALJ Erred in Finding That Dr. Zolnikov’s Opinions Were Inconsistent
13 with the Overall Medical Evidence

14 The ALJ’s first reason for rejecting Dr. Zolnikov’s opinions does not withstand
15 scrutiny. An ALJ may reasonably reject a doctor’s opinions when they are inconsistent
16 with or contradicted by the medical evidence. *See Batson v. Comm’r of Soc. Sec. Admin.*,
17 359 F.3d 1190, 1195 (9th Cir. 2004). But the ALJ’s conclusion must be supported by
18 substantial evidence in the record. *See Bayliss*, 427 F.3d at 1214 n.1.

19 The ALJ’s primary contention here was that Plaintiff’s symptoms “improved and
20 stabilized on medications.” (*See* AR at 32.) The overall medical record does not support
21 this contention. In November 2015, Plaintiff reported that her medications were helping
22 her symptoms, but she was “still having significant episodes of anxiety.” (*Id.* at 547.) In
23 March 2016, Plaintiff reported that her medication was helping, but her treatment

1 providers noted symptoms of mania, and one doctor suggested she undergo inpatient
2 psychiatric treatment. (*Id.* at 560-61.) Plaintiff's therapist, Ms. Mallory, noted on
3 multiple occasions between August 2016 and January 2017 that Plaintiff suffered from
4 delusions, and exhibited abnormal thought processes such as racing thoughts and "flight
5 of ideas." (*See id.* at 620, 623, 631, 641, 644, 654, 656, 659, 664.) The ALJ's contention
6 that Plaintiff's symptoms improved and stabilized was not supported by substantial
7 evidence in the record, and thus he erred in rejecting Dr. Zolnikov's opinions as
8 inconsistent with the overall medical evidence.

9
10 2. The ALJ Erred in Finding That Dr. Zolnikov's Opinions Were Inconsistent
11 with His Own Examination Findings

12 The ALJ's second reason for rejecting Dr. Zolnikov's opinions is similarly flawed.
13 An ALJ may discount a doctor's opinions when they are inconsistent with or unsupported
14 by the doctor's own clinical findings. *See, e.g., Tommasetti v. Astrue*, 533 F.3d 1035,
15 1041 (9th Cir. 2008). But again, the ALJ's determination must be supported by
16 substantial evidence in the record. *See Bayliss*, 427 F.3d at 1214 n.1.

17 The ALJ's primary reasoning here was that Plaintiff's "presentation and
18 performance during the mental status examination did not reveal significant deficits in
19 overall and cognitive functioning." (AR at 32.) That is an incomplete description of Dr.
20 Zolnikov's report, which reflected both normal and abnormal findings. (*See id.* at
21 578-79.) Dr. Zolnikov noted that Plaintiff was cooperative with the exam but "tended to
22 ramble and exhibit tangentiality and loose associations." (*Id.*) Plaintiff denied any
23 current episodes of mania, but "presented with a depressed mood." (*Id.* at 579.) Plaintiff

1 showed good insight into her mood issues, but poor insight in “identifying issues with
2 [her] thought disorder.” (*Id.*) These findings do not contradict Dr. Zolnikov’s opinions,
3 nor has the ALJ specifically explained how they are inconsistent with Dr. Zolnikov’s
4 opinions. The ALJ’s determination that Dr. Zolnikov’s exam findings were inconsistent
5 with his opinions was therefore not a specific and legitimate reason to reject Dr.
6 Zolnikov’s opinions.

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8 3. The ALJ Erred in Rejecting Dr. Zolnikov’s Opinions Because Plaintiff
9 Made Inconsistent Statements to Dr. Zolnikov

10 The ALJ’s third reason for rejecting Dr. Zolnikov’s opinions fails because it is
11 vague and inadequately explained. The fact that Plaintiff made inconsistent statements
12 may detract from her credibility, but the ALJ needed to do more than simply
13 acknowledge those inconsistencies to reject Dr. Zolnikov’s opinions. *See Ryan v.*
14 *Comm’r of Soc. Sec.*, 528 F.3d 1194, 1199-200 (9th Cir. 2008). The ALJ needed to
15 explain the relevance of those inconsistencies and demonstrate that Plaintiff’s subjective
16 reports somehow distorted the doctor’s findings. *See id.*

17 None of the inconsistencies the ALJ noted here are particularly revealing, nor do
18 they contradict Dr. Zolnikov’s opinions. For example, Plaintiff told Dr. Zolnikov she
19 stopped working in 2013 because her mental health deteriorated, but elsewhere reported
20 that she stopped working to care for her ill son. (AR at 27-28, 289, 367, 576.) Dr.
21 Zolnikov examined Plaintiff three years after she stopped working, and nothing in his
22 report indicates that he relied on Plaintiff’s reported reason for stopping work more than
23 he did his own objective findings. (*See id.* at 576-84.) The ALJ therefore failed to

1 adequately explain why Plaintiff's inconsistent statements justified discounting Dr.
2 Zolnikov's opinions.

3 The ALJ also noted that Plaintiff was not entirely forthcoming regarding her past
4 and present drug use. (*Id.* at 28.) In some situations, a claimant's undisclosed drug use
5 may be an adequate reason to discount a doctor's opinions, such as where it compromises
6 the doctor's ability to accurately diagnose the claimant. *See, e.g., Andrews*, 53 F.3d at
7 1042 (upholding ALJ's rejection of examining psychologist's opinions where his "ability
8 to diagnose [the claimant] accurately was compromised by [the claimant's] substance
9 abuse"). But here the ALJ did nothing more than to note Plaintiff's inconsistent
10 statements regarding her drug use. (*See AR* at 28, 32.) The ALJ did not explain how or
11 why this compromised Dr. Zolnikov's opinions, especially considering the fact that Dr.
12 Zolnikov was able to examine Plaintiff and make objective clinical findings. (*See id.* at
13 28, 32, 576-84.) The ALJ thus erred in rejecting Dr. Zolnikov's opinions based on
14 Plaintiff's inconsistent statements.
15

16 4. The ALJ's Errors in Rejecting Dr. Zolnikov's Opinions Were Harmful

17 The ALJ's errors in evaluating Dr. Zolnikov's opinions must be deemed harmful.
18 The court may only consider an error harmless when it is "inconsequential to the ultimate
19 nondisability determination." *Stout v. Comm'r, Soc. Sec. Admin.*, 454 F.3d 1050, 1055
20 (9th Cir. 2006). Because the ALJ discounted Dr. Zolnikov's opinions, he did not fully
21 account for the limitations Dr. Zolnikov imposed on Plaintiff in the RFC. For example,
22 Dr. Zolnikov opined that Plaintiff was severely limited in her ability to communicate and
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1 perform effectively in a normal work setting, yet the RFC does not include any
2 communication limitations beyond “occasional interaction with the general public.” (*See*
3 AR at 20-21, 578.) But an RFC must address all of a claimant’s limitations established
4 by the evidence or it is defective. *Valentine v. Comm’r Soc. Sec. Admin.*, 574 F.3d 685,
5 690 (9th Cir. 2009); *Embrey v. Bowen*, 849 F.2d 418, 422 (9th Cir. 1988). The ALJ
6 accordingly committed harmful error in rejecting Dr. Zolnikov’s opinions.

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8 **B. The ALJ Harmfully Erred in Rejecting Ms. Mallory’s Lay Statements**

9 Plaintiff next contends that the ALJ harmfully erred in rejecting Ms. Mallory’s lay
10 witness statements. (Pl. Op. Br. at 3.) The court agrees.

11 In determining disability, “an ALJ must consider lay witness testimony
12 concerning a claimant’s ability to work.” *Bruce v. Astrue*, 557 F.3d 1113, 1115 (9th Cir.
13 2009) (quoting *Stout*, 454 F.3d at 1053). Lay witness testimony includes medical
14 statements from individuals such as mental health therapists, who are not considered
15 acceptable medical sources. *See* 20 C.F.R. § 404.1502(a); *Fernandez v. Barnhart*, 68
16 F. App’x 820, 821 (9th Cir. 2003). The ALJ must “give reasons germane to each
17 witness” before he can reject statements from these other medical sources. *Molina v.*
18 *Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012) (internal citations and quotation marks
19 omitted). “Further, the reasons ‘germane to each witness’ must be specific.” *Bruce*, 557
20 F.3d at 1115 (quoting *Stout*, 454 F.3d at 1054).

21
22 Ms. Mallory was Plaintiff’s therapist. (*See* AR at 600-87.) She submitted a
23 medical source statement on October 28, 2016. (*See id.* at 689-91.) Ms. Mallory opined

1 that Plaintiff was markedly limited in her abilities to maintain attention and concentration
2 for extended periods of time; and complete a normal work day and week without
3 interruptions from her psychologically-based symptoms. (*Id.* at 690.) Ms. Mallory
4 explained that Plaintiff “displays struggles with task orientation and remaining focused
5 during [therapy] sessions,” and that she “has to be redirected multiple times throughout
6 [these] sessions.” (*Id.* at 691.)

7 The ALJ gave Ms. Mallory’s statements little weight. (*Id.* at 32.) He reasoned
8 that (1) her statements were inconsistent with the overall medical evidence; (2) Ms.
9 Mallory’s treatment visits often focused on Plaintiff’s “ongoing psychological stressors
10 and fixation on receiving disability benefits . . . instead of actually discussing mental
11 health issues”; and (3) Ms. Mallory’s statements were contradicted by Plaintiff’s daily
12 activities. (*Id.*)

14 1. The ALJ Erred in Rejecting Ms. Mallory’s Statements for Being
15 Inconsistent with the Overall Medical Evidence

16 The ALJ’s reasoning here was the same as it was for Dr. Zolnikov. (*See* AR at
17 31-32.) The ALJ again claimed that Plaintiff improved and stabilized on medication, a
18 fact that is not supported by the record. *See supra* § III.A.1. The ALJ accordingly erred
19 in rejecting Ms. Mallory’s statements for being inconsistent with the overall medical
20 evidence.

21 2. The ALJ Erred in Rejecting Ms. Mallory’s Testimony on the Basis That
22 Her Treatment Visits Focused on Issues Other Than Plaintiff’s Mental
23 Health

 The ALJ’s second reason for rejecting Ms. Mallory’s statements fails because it

1 does not accurately reflect the record. An ALJ may not reject lay testimony based on an
2 inaccurate portrayal of the record evidence. *See Reddick*, 157 F.3d at 722-23 (reversing
3 ALJ's decision where his "paraphrasing of record material is not entirely accurate
4 regarding the content or tone of the record"). First, Ms. Mallory's treatment notes
5 indicate that the issues she and Plaintiff often discussed related to Plaintiff's mental
6 health. (*See, e.g.*, AR at 606, 618, 621, 627, 632, 637.) Second, the fact that a therapist
7 would discuss her patient's "ongoing psychological stressors" in no way detracts from the
8 reliability of the therapist's testimony. To the contrary, a discussion of ongoing
9 psychological stressors is a perfectly reasonable topic of discussion during mental health
10 therapy. Third, although Plaintiff discussed her efforts to obtain social security benefits
11 at some of her appointments with Ms. Mallory, there is nothing to suggest that Ms.
12 Mallory's statements were improperly influenced by these discussions. This was thus not
13 a reasonable basis on which to discount Ms. Mallory's statements. *Cf. Nguyen v. Chater*,
14 100 F.3d 1462, 1464-65 (9th Cir. 1996) (holding that an ALJ may not reject the opinion
15 of a doctor when the opinion was procured at the request of an attorney if there is no
16 evidence of impropriety, and the opinion has an objective medical basis).

18 3. The ALJ Erred in Rejecting Ms. Mallory's Statements as Inconsistent with
19 Plaintiff's Daily Activities

20 The ALJ's third reason for rejecting Ms. Mallory's statements fails because it once
21 again does not accurately reflect the evidence in the record. The ALJ determined that
22 Plaintiff's "ability to maintain her home and take care of her family members [as
23 reported] during the hearing indicate[d] a higher level of functioning than reflected in Ms.

1 Mallory's opinion." (AR at 32.) Although inconsistency with a claimant's daily
2 activities is a germane reason for discounting lay witness testimony, *Bramble v.*
3 *Berryhill*, 692 F. App'x 862, 864 (9th Cir. 2017), the ALJ's findings must be supported
4 by substantial evidence in the record, *see Bayliss*, 427 F.3d at 1214 n.1.

5 The ALJ's determination here is not supported by substantial evidence. Far from
6 showing an ability to maintain a home, Plaintiff testified that she and her boyfriend slept
7 in a tent on her mother's property. (*See* AR at 66-67.) Similarly, Plaintiff's testimony
8 does not show that she took care of her family members to any significant extent.
9 Plaintiff testified that her mother spent a substantial amount of time caring for Plaintiff
10 and her children. (*Id.* at 82.) Plaintiff testified that one of her sons was homeless. (*Id.* at
11 85.) Plaintiff testified that although two of her sons lived with her, both were adults and
12 left her alone because she had difficulty communicating with them. (*See id.* at 83, 97-
13 98.) The ALJ's decision to reject Ms. Mallory's statements as inconsistent with
14 Plaintiff's daily activities was thus not supported by substantial evidence.
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16 4. The ALJ's Errors in Rejecting Ms. Mallory's Statements Were Harmful

17 The court once again concludes that the ALJ committed harmful error. He gave
18 no valid reasons for rejecting Ms. Mallory's statements, which suggested additional work
19 limitations beyond those in the RFC. (*See id.* at 20-21, 690-91.) Accordingly, the court
20 cannot confidently conclude that the ALJ would have reached the same disability
21 determination had he properly considered Ms. Mallory's statements. *See Stout*, 454 F.3d
22 at 1055-56. The ALJ therefore committed harmful error when he failed to properly
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1 evaluate Ms. Mallory's statements.

2 **C. The ALJ Erred in Assessing Plaintiff's RFC**

3 Plaintiff argues that the ALJ harmfully erred because he rejected all of the medical
4 opinions in the record, and therefore must have based Plaintiff's RFC on less than
5 substantial evidence. (Pl. Op. Br. at 2-3.) Plaintiff is incorrect, as the RFC is more than
6 just a medical determination. The ALJ must consider the medical evidence, such as
7 treatment records and doctors' opinions, but must also take into account the claimant's
8 testimony, lay witness statements, and other non-medical considerations, such as the
9 claimant's daily activities. *See* 20 C.F.R. § 404.1545(a)(3); *Robbins v. Soc. Sec. Admin.*,
10 466 F.3d 880, 883 (9th Cir. 2006); SSR 96-8p, 1996 WL 374184, at *5 (July 2, 1996)
11 (stating that the "RFC assessment must be based on *all* of the relevant evidence in the
12 case record, such as: [m]edical history, [m]edical signs and laboratory findings, . . .
13 [r]eports of daily activities, [l]ay evidence, [r]ecorded observations, [and] [m]edical
14 source statements"). Thus, while it is true that the ALJ may not substitute his own
15 medical opinions for those of trained professionals, he may (and, in fact, must) translate
16 all of the evidence, medical and non-medical, into a succinct RFC.

17
18 Plaintiff is correct, however, that the ALJ erred by basing his RFC determination
19 on less than substantial evidence. As discussed above, the ALJ harmfully erred in
20 rejecting Dr. Zolnikov's opinions and Ms. Mallory's statements. *See supra* §§ III.A-.B.
21 His RFC determination was therefore not supported by substantial evidence. *See*
22 *Lingenfelter v. Astrue*, 504 F.3d 1028, 1041 (9th Cir. 2007) (holding that the ALJ's RFC
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1 determination was not supported by substantial evidence where he failed to give valid
2 reasons for discounting certain evidence).

3 **D. Scope of Remand**

4 The appropriate remedy for the ALJ's harmful errors in this case is to remand the
5 matter for further administrative proceedings because there are conflicts or ambiguities in
6 the record, and Plaintiff's entitlement to benefits is unclear. *See Treichler v. Comm'r of*
7 *Soc. Sec. Admin.*, 775 F.3d 1090, 1103-04 (9th Cir. 2014). For example, the ALJ did not
8 incorporate Dr. Zolnikov's opinions on Plaintiff's limitations into the RFC or
9 hypotheticals to the vocational expert, so the court is unable to determine whether any
10 jobs exist in significant numbers in the national economy that Plaintiff could perform.
11 (See AR at 20-21, 32.) The same is true of Ms. Mallory's statements. (See *id.* at 20-21,
12 31-32.) Remand for further proceedings is necessary to resolve these and other
13 ambiguities. *See Leon v. Berryhill*, 880 F.3d 1041, 1047-48 (9th Cir. 2017) (affirming
14 the district court's remand for further proceedings rather than remand for an award of
15 benefits where there were unresolved conflicts and ambiguities in the evidence).

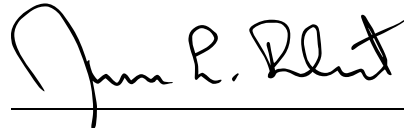
17 On remand, the ALJ shall reevaluate Dr. Zolnikov's opinions; reevaluate Ms.
18 Mallory's statements; reassess the medical evidence as necessary; reassess Plaintiff's
19 RFC; and conduct further proceedings as necessary to reevaluate the disability
20 determination in light of this opinion.

22 **IV. CONCLUSION**

23 For the foregoing reasons, the Commissioner's final decision is REVERSED and

1 the matter is REMANDED for further proceedings under sentence four of 42 U.S.C.
2 § 405(g).

3 DATED this 29th day of November, 2018.

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6 JAMES L. ROBART
7 United States District Judge
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